Province of
British Columbia

A GUIDE TO THE RELATIONSHIP BETWEEN AGRICULTURAL LAND RESERVES AND LOCAL GOVERNMENT PLANS AND BYLAWS

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A GUIDE TO THE RELATIONSHIP BETWEEN AGRICULTURAL LAND RESERVES AND LOCAL GOVERNMENT PLANS AND BYLAWS

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PART I INTRODUCTION

Land use planning and regulation in British Columbia is a joint responsibility of both local and provincial government.

Local governments are concerned primarily with planning for human settlements. Under the authority of the Municipal Act, local governments are responsible for preparing official plans and regulating land use via various implementing bylaws.

The provincial government is concerned with overall provincial development in the areas of finance, social services, natural resources, economic development and transportation. Naturally this includes interests in provincial settlement patterns. The province is engaged in a number of land use planning and land management programs related to these interests.

One specific interest of the provincial government is the protection of agricultural land through the Agricultural Land Commission Act. The province, in an effort to preserve agricultural land, has designated land suitable for farm use as Agricultural Land Reserves (ALRs). Administration of the ALRs is the responsibility of the Agricultural Land Commission. Local government continues to have land use planning and regulation responsibilities for land within the reserves; however, it is always subject to the Act and the decisions of the Agricultural Land Commission.

The management of the Agricultural Land Reserves may have considerable significance for settlement planning. It is the interdependence of local government planning for the development of human settlements and provincial protection of agricultural land which is the subject of this guide.

The following guidelines set out the manner in which the Ministry of Municipal Affairs and the Provincial Agricultural Land Commission would prefer to see the ALRs treated in official community and settlement plans and in implementing bylaws. These are guidelines and may not be appropriate in all cases. In certain situations, alternatives may be preferred. In these situations, the Commission and the Ministry of Municipal Affairs should be consulted by local government early in the planning process.

PART II THE ALR AND OFFICIAL COMMUNITY AND SETTLEMENT PLANS

1. Agricultural Policies

Any plans which include Agricultural Land Reserves within the plan area should have a policy section on agriculture containing policies supportive of the preservation of agricultural land and the enhancement of agricultural activities in the area. The policies should be appropriate to the agricultural activities which are characteristic of the geographic areas of the plan.

Guidelines for the preparation of such agricultural policies are included in the Appendix. These guidelines outline the types of policies which should be included in plans to encourage the preservation of agricultural land for present and future food production.

2. Identification of ALRs in the Plan

Official plans should contain a map showing the location of boundaries of the ALR within the plan area. This map should not be adopted as part of the official plan. Including a map of the ALR in the plan will make it clear to the public where the Agricultural Land Commission Act applies. The map should be dated and should bear a footnote stating that it is for reference purposes and only accurate as of that date. It is important to make clear that the map is for reference purposes only: this way it will not be necessary to amend the map when there are changes to the boundaries of the ALR.

3. Agricultural Land Commission Endorsement of the Plan

To ensure that local government plans are compatible with provincial agricultural land preservation objectives, plans should be referred to the Agricultural Land Commission and its endorsement obtained for plan policies and designations affecting ALRs.

Local government is advised to contact the Agricultural Land Commission at the beginning of the planning process and to submit the various drafts of the plan to the Commission for their review and endorsement. Where necessary, the Ministry of Municipal Affairs will assist local governments and the Agricultural Land Commission to reach agreement on plan policies and designations.

Official settlement plans submitted for approval under Section 809 of the Municipal Act and Official Community Plans submitted for registration under Section 307 will not be favourably considered if the Agricultural Land Commission has advised that they are incompatible with the intent of the Agricultural Land Commission Act.

4. Appropriate Land Use Designations

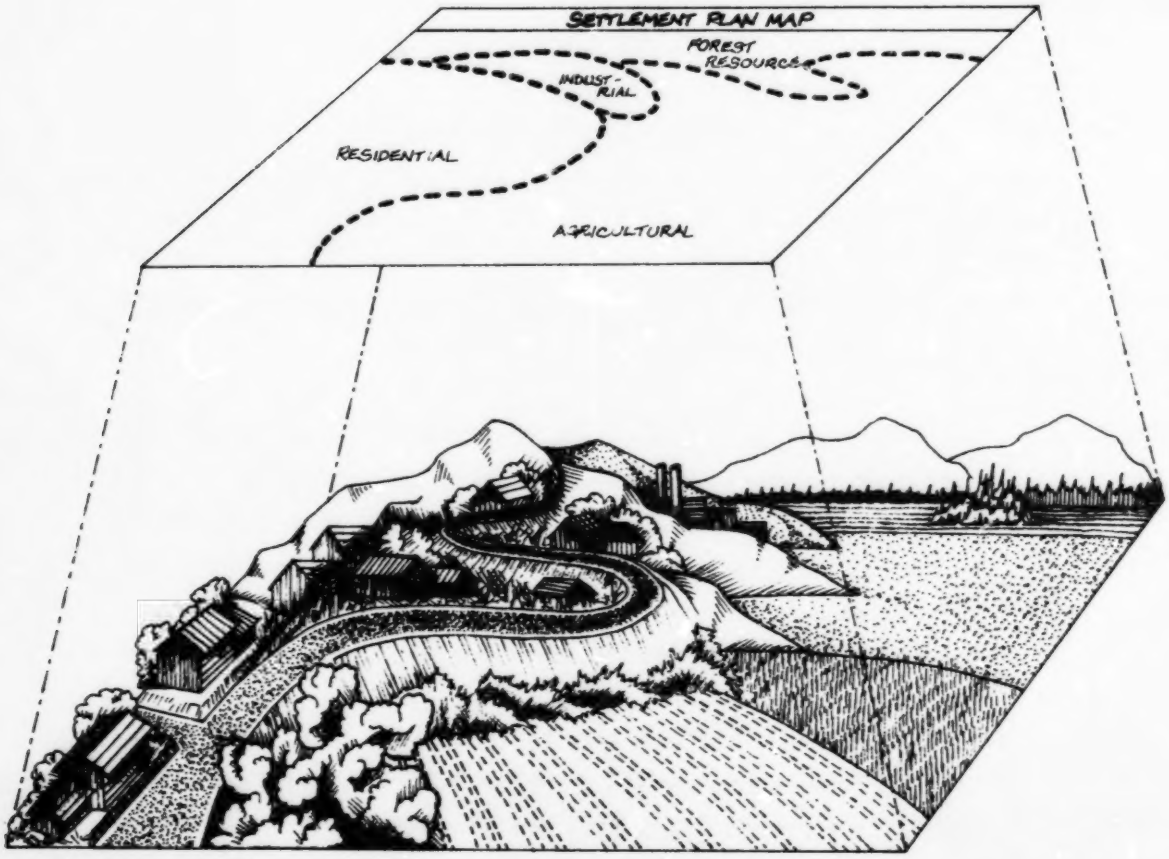
The official plan designation covering ALRs should be an agriculture or resource use designation which includes agriculture, excludes urban use and rural residential subdivisions, and has parcel size or density provisions consistent with maintaining the widest range of options for agricultural practice in the region. (See 6 below for specific guidelines on parcel size and density).

Local government should ensure that designations covering the ALR meet the following criteria:

- The land use designation covering ALRs must be compatible with the intent of the Agricultural Land Commission Act.
- The land use designation may include other agricultural and resource lands not within the ALRs if this is felt necessary due to local circumstances.
- The name of the land use designation should reflect agricultural and/or resource use.
- It is preferred that all ALRs be included within the same designation; however, where appropriate, two or more designations could apply as long as the preceeding points are accommodated.

o In the case of non-agricultural uses in the ALR, agreed to by the Commission or exempt under Section 19 of the Agricultural Land Commission Act, an appropriate designation other than agriculture or resource may be applied provided that the extent of the designation is limited to the area physically utilized by the non-agricultural use. Where actual designation of the non-agricultural use is not appropriate due to the map scale or the conceptual nature of the map, established non-agricultural uses may be recognized via a policy statement. Such a policy statement would allow appropriate zoning at the implementation stage.

The Agricultural Land Commission should be consulted to determine whether or not a particular designation meets the above criteria.



5. Non-Agricultural Use of ALRs

In some cases during the plan preparation process investigation of demand for various types of land use may indicate a need to use land currently in the ALR for non-agricultural uses. In certain instances the proposed use may be accommodated within the ALR; in others the only practical course of action will be to eventually exclude the land from the ALR. In either case, it is not the Commission's intention to delay adoption of the plan pending the absolute finalization of an application for exclusion, subdivision, or non-farm use, provided the Commission agrees by resolution to the plan designation prior to adoption of the plan.

When non-agricultural use of ALRs is proposed in the plan, early consultation with the Commission is essential in the initial stages of plan preparation and definitely before public hearing. The plan should designate ALRs for non-agricultural use only when the Commission has indicated agreement that non-agricultural use is appropriate based upon community need or the land's limited agricultural potential.

When non-agricultural use is proposed in the ALRs, it should be shown in the plan in the following manner:

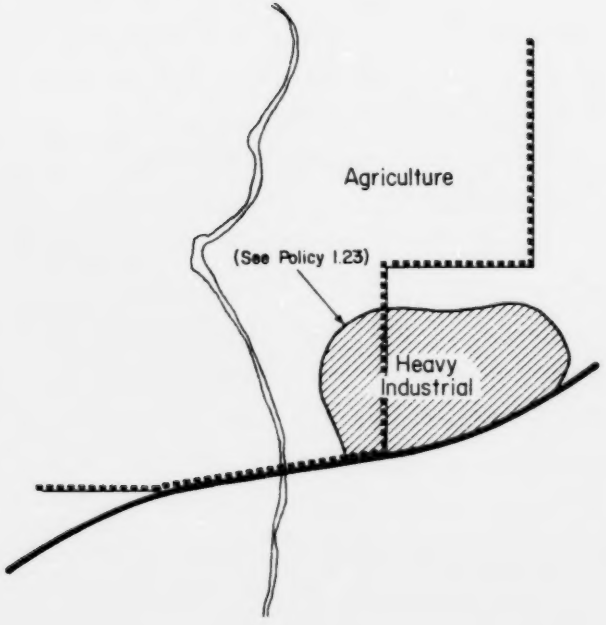
a) The plan text should contain an appropriate policy statement indicating the proposed future use of the site, but also noting that the land is in the ALR and the proposed use is subject to Commission approval.

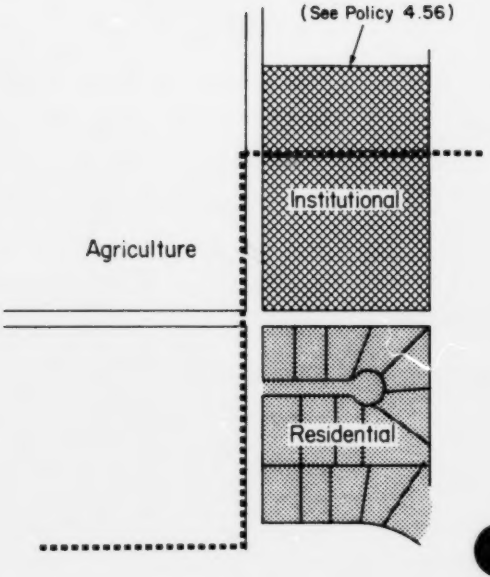
b) In addition, reference to this policy should be contained on the plan map, where the scale permits.

Figure 1 shows two examples of how this could be handled.

FIGURE 1

EXAMPLE OF PLAN MAPS





••••••• ALR BOUNDARY

••••••• ALR BOUNDARY

EXAMPLE OF TEXT POLICIES

1.23 In order to accommodate log storage needs for the ABC Mill, an area adjacent to the existing mill site, as indicated on the plan map (Schedule A) is designated "Heavy Industrial". This land is currently in the ALR and therefore continues to be subject to the Agricultural Land Commission Act, Regulations thereto and Orders of the Commission. Application for non-farm use of this land shall be undertaken and upon approval, zoning of the land to provide for industrial use shall be considered.

4.56 In order to accommodate the need for future hospital expansion, an area east of Main Street, as indicated on the plan map (Schedule A), is designated "Institutional". This land is currently in the ALR and therefore continues to be subject to the Agricultural Land Commission Act, Regulations thereto and Orders of the Commission. Application for exclusion of this area from the ALR shall be undertaken and upon exclusion, zoning of the land to provide for hospital expansion shall be considered.

It is important to note that if the Commission does not agree that the non-agricultural use is warranted, the plan must designate the land for agricultural use. The local government will have to find an alternative location for the non-agricultural use, or continue to negotiate an agreeable solution with the Commission.

A plan with non-agricultural designations not endorsed by the Commission would be illegal and in contravention of the Agricultural Land Commission Act. Furthermore, it may also fail to adequately meet future land use needs if the Agricultural Land Commission will not approve the use.

If the Commission does not agree with the proposals for non-agricultural use of the ALRs, official settlement plans submitted for approval under Section 809 of the Municipal Act and official community plans submitted for registration under Section 307 will not be favourably considered.

6. Minimum Parcel Size or Density

The Agricultural Land Commission does not have regulations stipulating minimum parcel sizes for land within the ALR. Although there are exceptions, the Commission as a general rule, regards any subdivision of land in the ALRs as being detrimental to the agricultural use of that land. Subdivision of a specific parcel or area often creates expectations of possible subdivision over a broader area and small parcels may limit the range of agricultural options. The Commission, therefore, generally does not favour designations where the minimum lot size or density regulation is inconsistent with existing lot sizes in the area and/or is inconsistent with the intent of the Agricultural Land Commission Act.

It is recognized however, that in the event lands are excluded from the ALR or approved for subdivision by the Commission, density or parcel size should be specified in the designation which covers the ALRs to allow local government the opportunity to exercise their residual powers of regulation.

This can be achieved by using the following policy pertaining to parcel size or density in the "agricultural" or other designations applied to the ALR:

> "Where land is in the AGRICULTURAL[1] designation and in an ALR the minimum parcel size of _____ ha shall only apply when that land is:
>
> 1) excluded from the ALR, or
> 2) approved for subdivision within the ALR pursuant to the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission, or
> 3) exempted by the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission."

Local governments are advised to consult with the Commission to discuss the range of parcel sizes which may be appropriate in each case.

When the Agricultural Land Commission considers favourably an application for subdivision, every effort shall be made to maintain consistency between the Commission's decision and the minimum lot size for the area as stipulated by the plan. However, it should be noted that the mandate of the Commission is to protect agricultural land and this may result in decisions which, in the Commission's view, are not inconsistent with the protection of agricultural land but which may be totally inconsistent with a community's desired plans and objectives for that land. Accordingly the following two scenarios could result:

1. From time to time the Commission may be obliged within the context of their mandate, as specified by the Agricultural Land Commission Act, to approve an application to subdivide land within an ALR which is not consistent with the minimum parcel size stipulated in an official plan. For example, subdivision of a 20 ha lot into 4 x 5 ha lots where the plan has a minimum 10 ha lot size. In this case, the plan minimum parcel size will prevail: the minimum lot size will be 10 ha and the Agricultural Land Commission decision does not oblige the local government to amend its plan.

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1 Or other designation name.

2. Alternatively, the Commission, on the same basis, may be obliged to refuse an application to subdivide land within an ALR which would be consistent with the minimum lot size as indicated in the plan. For example, subdivision of an 80 ha lot into 4 X 20 ha lots where the plan has a minimum lot size of 20 ha.
(See also Part III, Section 4 for how this relates to implementing bylaws).

The Agricultural Land Commission has found that the general public sometimes has difficulty understanding inconsistencies between the minimum parcel sizes set out in the plan and the decisions of the Agricultural Land Commission. Therefore, the Commission recommends that the plan contain a brief explanation following the minimum parcel size provisions for the agricultural designation. The suggested wording is:

> "Notwithstanding that the Agricultural Land Commission may have indicated approval of or no objection to this plan, the Commission is obliged to consider individual applications on their own merit under the mandate of the Agricultural Land Commission Act and is not obliged to approve applications that comply with or alternatively, to refuse applications that do not comply with the minimum lot size or density of this land use designation".

7. Exemptions from the Agricultural Land Commission Act: Section 19 and General Orders

Where significant areas of land in the plan area come under the exemptions specified under Section 19 or an exemption via a general order of the Agricultural Land Commission Act, it is important that consultation with the Commission is undertaken to ensure that the lands are indeed exempt from the land use and/or subdivision restrictions of the Act.

If it is determined that the land in question is exempt under Section 19 or a general order, difficulty may arise in zoning land for a non-farm use if the plan designates the land "agricultural" since zoning must comply with

the plan. If this situation exists, every effort should be made to obtain early Commission agreement on the appropriate designation.

8. Major Road Networks

The legislation for official plans requires a major road network be included in the plan. Where the Ministry of Transportation and Highways proposed road network plan shows roads which cross through the ALRs, the Ministry of Transportation and Highways has responsibility for consultation with the Agricultural Land Commission. Where other local roads not on the Ministry of Transportation and Highways road network plan are proposed to cross through the ALR, the local government must consult with the Commission and obtain their endorsement. Where there are differences of opinion on the location of roads through the ALR, every attempt should be made to resolve these with the Commission prior to finalization of the plan. If the Commission has not approved of some components of the road network at the time of adoption of the plan, it is recommended that a statement similar to the following be placed on the transportation map of the plan to indicate to the general public that Agricultural Land Commission approval is still required prior to road network construction:

> "The location of these routes within the ALR is not to be construed as having the endorsement of the Agricultural Land Commission. The construction, upgrading or dedication of these routes may not proceed without the aproval of the Commission".

PART III THE ALR AND IMPLEMENTING BYLAWS

1. Appropriate Land Use Zones in ALRs

Where there is an official plan the zones shall comply with the plan including appropriate zones where the Commission has endorsed non-agricultural designations in the plan.

Where there is no official plan, Part II, Section 4 should be used as guidance in developing appropriate zones for the ALRs.

With respect to the list of permitted uses in a land use zone, unless otherwise approved by the Commission, implementing bylaws must not prohibit farm use, including intensive agriculture, within the ALRs. Section 31 of the Agricultural Land Commission Act stipulates that where a bylaw of a municipality or regional district is inconsistent with the Act, Regulations or Orders, then the Act prevails and the inconsistent portion is suspended. This section does not, however, limit a municipality or regional district from regulating farm uses, but the result of these regulations must not effectively prohibit such uses within the ALRs.

Notwithstanding the above, the Commission recognizes that there may be exceptions where certain types of agricultural use, particularly intensive agriculture, are incompatible with the existing land use and subdivision pattern in an area. In these circumstances the Commission may consider endorsing local government bylaws which do, in fact, prohibit some types of farm use.

Under the Agricultural Land Commission Act certain uses in addition to farm uses are permitted either outright or conditionally by the Commission. At the option of local government, certain of these uses may be restricted or prohibited in the zoning bylaw. Local government should consult with the

Agricultural Land Commission to determine what uses are appropriate in the zone(s) pertaining to the ALRs.

2. Zoning for Non-Farm Use

Where a non-farm use has been approved by the Commission or an existing use is exempt by Section 19, local government may wish to zone the land to render the use conforming. (This can be done provided it is not contrary to the plan designation or policies.) In these cases the Commission will generally not require that agriculture be included in the list of permitted uses for that zone particularly if it would have negative implications when the zone is used for other parcels outside the ALRs, - for example, a mobile home park zone.

Conversely, the Commission or local government may request that a restrictive covenant be registered under Section 215 of the Land Title Act to restrict the list of uses permitted in a zone to the specific non-farm use approved.

3. Relationship Between Agricultural Land Commission Legislation and Implementing Bylaws

It is recommended that all implementing bylaws which regulate the ALR include a clause in the preamble or General Provisions Section of the bylaw which notifies the reader that land within the ALR is subject to the Agricultural Land Commission Act. An example of such a clause is as follows:

> Whereas it is recognized that land designated as "Agricultural Land Reserve" is subject to the Agricultural Land Commission Act, Regulations made pursuant to the Agricultural Land Commission Act, and relevant Orders of the Provincial Agricultural Land Commission made pursuant to the Agricultural Land Commission Act; (.....the Council/ Board hereby enacts).

In addition a similar clause may be used in the section for the "Agricultural" or other zones pertaining to the ALRs, for example:

Notwithstanding any other provisions of this bylaw, all lands within the ALR except those exempted under Section 19 of the Agricultural Land Commission Act or a general Order of the Commission, are subject to the provisions of the Agricultural Land Commission Act, Regulations thereto, and Orders of the Commission (thereby not permitting the subdivision of land and the development of new non-farm uses unless approved by the Agricultural Land Commission).

4. Minimum Parcel Size or Density

The Commission has interests and concerns about minimum parcel size or density provisions in implementing bylaws similar to those expressed in Part II, Section 6, dealing with minimum parcel sizes in official plans.

Consequently, zoning regulations respecting parcel size or density within "agricultural" or other zones covering the ALRs should be qualified in a similar manner as are those regulations stated within official plans; for example:

> Where land is in the "Agricultural"[1] zone and in an ALR the minimum parcel size of _____ ha shall apply when that land is:
>
> 1) excluded from the ALR, or
> 2) approved for subdivision within the ALR pursuant to the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission, or
> 3) exempted by the Agricultural Land Commission Act, Regulations thereto, or Orders of the Commission.

Again, as with official plans, when the Agricultural Land Commission considers favourably an application for subdivision, every effort shall be made to maintain consistency between the Commission's decision and the minimum lot size of the zone in question. The Commission is concerned about public misunderstanding when a decision of the Commission is inconsistent with a local government's zoning or subdivision bylaws. Therefore, local governments are encouraged to advise the public when discussing rezoning or

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1 Or other zone name

ALR applications, that although the Agricultural Land Commission may have indicated approval or no objection to the bylaw, the Commission is obliged to consider individual applications on their own merit under the mandate of the Agricultural Land Commission Act. It is not obliged to approve applications that comply, or alternatively, refuse applications that do not comply with the minimum lot size or density of any zone.

5. Agricultural Land Commission Decisions and Local Government Regulations

A decision of the Commission to approve an application for non-farm use within an ALR may in turn necessitate amendment of an implementing bylaw or official plan. The Commission approval of the use should also be interpreted as an endorsement of the zoning or plan amendment required to realize the use if indeed the local government also considers favourably the particular use in question.

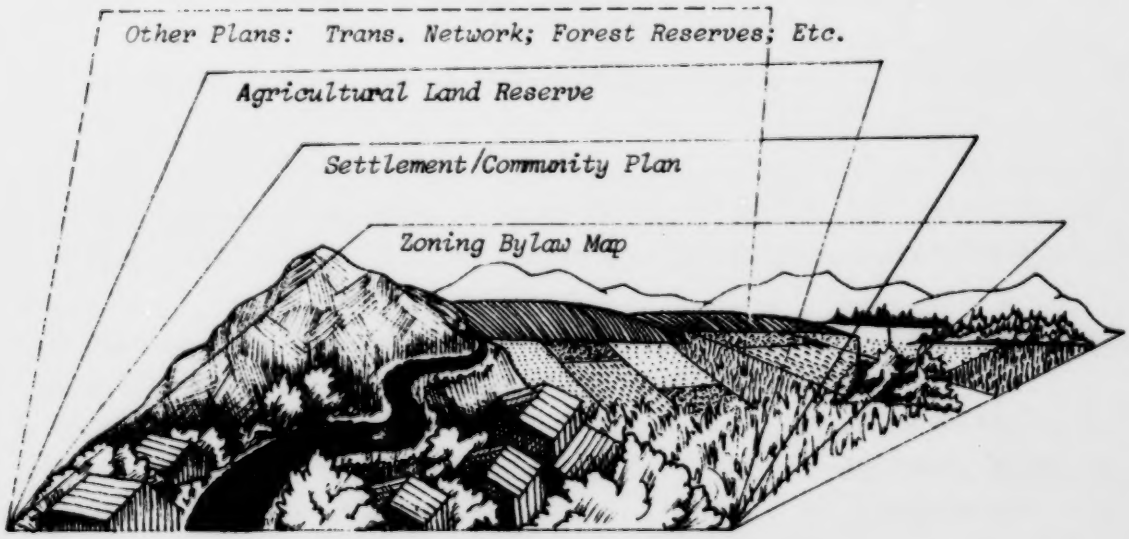
However, it is important to note that in the case of individual applications for subdivision or non-farm uses that may be allowed by the Agricultural Land Commission, an approval by the Commission does not oblige a municipality or regional district to automatically amend its zoning or other bylaws to accommodate the use. The considerations expressed in Section 716 of the Municipal Act should be properly addressed by local government in determining whether to rezone land, regardless of whether the Agricultural Land Commission has allowed a particular use. In other words, the criteria of a municipality or regional district for considering a rezoning under the Municipal Act are usually much wider than the criteria of the Commission in considering an application for non-farm use.

In some cases, the Commission may approve an application for non-farm use because there are no grounds for refusing it from an agricultural perspective under the Agricultural Land Commission Act. However, there may be very valid reasons under of the Municipal Act to refuse the rezoning application and the Commission has no authority or desire to usurp this role from local government.

PART IV SUMMARY

Through the Agricultural Land Commission Act the province is pursuing the objective of protecting agricultural land for present and future food production. Local government plans and bylaws are considered as important means to aid and support the achievement of this objective. The Agricultural Land Commission and the Ministry of Municipal Affairs, therefore, recognize that consistency between local government plans and bylaws and the objectives of the Agricultural Land Commission Act is important. The guidelines set out in this publication are intended to be an aid in achieving this task and to enable the province and local governments to act as partners in protecting agricultural land.

It is recognized, however, that due to the complex considerations involved in settlement planning and agricultural land protection, continued co-operation and consultation between the province and local government will be necessary to achieve the goals of both.



APPENDIX

AGRICULTURAL POLICIES

In order to foster the preservation and continuing use of agricultural land for present and future food production, official plan documents should contain supportive agricultural policies. In most cases it will be appropriate to incude these policies in the agriculture or resource section of the plan. In some circumstances, however, it may be appropriate that they appear as objective statements, general policies or be included in other designations or parts of the plan. It is recognized that agricultural policies should reflect local needs and conditions and will, therefore, vary throughout the province.

The following is a list of the various types of agricultural policies that should be considered at the time of plan preparation.

TYPES OF AGRICULTURAL POLICIES

1. Policies to encourage the preservation of agricultural lands, either in agricultural use, or in some other compatible land use, including tree production, that will not rule out later conversion to agriculture.

2. Policies to encourage expansion and diversification of agriculture and related activities.

3. Policies to direct major growth areas to lands outside the Agricultural Land Reserve.

4. Policies to reduce conflicts between intensive agricultural operations and other land uses. Consideration should be given to reference to the Green Zone Model Bylaws being prepared by the Ministries of Agriculture and Food and Municipal Affairs. Reference may also be appropriate to the Agricultural Environmental Control Program of the B.C. Federation of Agriculture and the Ministry of Agriculture and Food.

5. Policies pertaining to lands outside the ALR that will reduce conflicts between agriculture and other land uses. These may include density and siting regulations for adjacent land that are compatible with agricultural land.

6. Policies to provide adequate separation in the form of physical features or compatible land uses between urban growth and ALR lands, whether in agricultural use or not.

7. Policies to protect ongoing agricultural enterprises within the ALR and in particular a commitment to not unduly restrict specific types of agriculture within the ALR.

8. Policies to ensure the protection of grazing lands which form part of ranch units, whether in or outside the ALR (where applicable).

9. Policies to ensure that the location and construction of new roads and utility or communication corridors will have a minimal impact on farm holdings and operating activities.

10. Policies to encourage retention of large land holdings and discourage further parcel fragmentation and to encourage the consolidation of smaller parcels of agricultural land into larger agricultural units.

11. Policies to recognize the importance of the agricultural infrastructure, such as irrigation, drainage and diking works, service industries, retail marketing facilities, etc., that support the agricultural sector.

12. Policies to prevent rural residential or other non-farm development from adversely affecting agricultural activity.

13. Policies that would make a commitment to the control of designated weeds in an area. Reference to be made to the Weed Control Act administered by the Ministry of Agriculture and Food.

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